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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Situation in Cambodia

Report of the Secretary-General

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Introduction

1. In its decision 1992/102, adopted on 21 February 1992 at its forty-eighth session, the Commission on Human Rights affirmed that lasting peace and security in Cambodia, and the full enjoyment by its people of all human rights, including the right to self-determination, were dependent on the effective implementation of the Paris Agreement of October 1991 (see A/46/608 - S/23177), and in particular the holding of free and fair elections. It noted the substantive provisions on human rights in the Agreement and recalled the main features of the mandate of the United Nations Transitional Authority in Cambodia (UNTAC) in regard to human rights and the Commission's responsibility under the Paris Agreement to monitor closely the human rights situation in Cambodia after the end of the transitional period. The Commission, noting that the Centre for Human Rights had begun a programme of human rights information in Cambodia, went on to encourage the Centre to develop that programme throughout Cambodia, in coordination with UNTAC. It also requested the Secretary-General to inform it, at its forty-ninth session, about the human rights activities in Cambodia carried out by UNTAC and by the Centre for Human Rights.

2. Subsequently the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1992/17 of 27 August 1992, affirmed that Cambodia's tragic past required special and concrete measures to assure respect for the human rights and fundamental freedoms of all persons and that the international community had a responsibility to continue to support Cambodia in the field of human rights. After underlining the importance of the reconstruction and rehabilitation of the legal and judicial systems in Cambodia to be undertaken in parallel with human rights advocacy programmes, the Sub-Commission invited the Secretary-General to develop and implement, in collaboration with UNTAC, long-term comprehensive programmes of technical assistance and advisory services which would contribute to a lasting improvement in the enjoyment of human rights and fundamental freedoms in Cambodia. It also invited the Secretary-General to report to the Commission on Human Rights, at its forty-ninth session, on the activities undertaken and the progress made in that field.

3. The present report is submitted in accordance with the requests made by the Commission and the Sub-Commission.

I. BACKGROUND: THE PARIS AGREEMENTS AND HUMAN RIGHTS

4. Pursuant to the Final Act of the Paris Conference on Cambodia held from 21 to 23 October 1991 "in order to achieve an internationally guaranteed comprehensive settlement", three instruments were adopted:

(a) Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, with annexes on the mandate for UNTAC, military matters, elections, repatriation of Cambodian refugees and displaced persons, and the principles for a new Cambodian constitution;

(b) Agreement concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia; and

(c) Declaration on the Rehabilitation and Reconstruction of Cambodia.

5. A principal goal of the United Nations Transitional Authority in Cambodia (UNTAC), the establishment of which is provided for in article 2 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, is to ensure a neutral environment in Cambodia during the transitional period to elections, which are scheduled to take place by May 1993. But the same Agreement also makes specific reference, in the preamble, to human rights: "recognizing that Cambodia's tragic recent history requires special measures to assure protection of human rights, and the non-return to the policies and practices of the past ...".

6. Part III of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict is devoted to human rights and refers specifically to the Universal Declaration of Human Rights and other relevant human rights instruments.

7. In article 15 Cambodia undertakes:

To ensure respect for and observance of human rights and fundamental freedoms in Cambodia;

To support the right of all Cambodian citizens to undertake activities which would promote and protect human rights and fundamental freedoms;

To take effective measures to ensure that the policies and practices of the past shall never be allowed to return;

To adhere to relevant international human rights instruments.

8. Article 16 of the Agreement states that UNTAC shall be responsible during the transitional period for fostering an environment in which respect for human rights shall be ensured, based on the provisions of annex 1, section E. Under these provisions, UNTAC's tasks in the human rights field are:

(a) The development and implementation of a programme of human rights education to promote respect for and understanding of human rights;

(b) General human rights oversight during the transitional period;

(c) The investigation of human rights complaints, and, where appropriate, corrective action.

9. The Agreement further provides that, after the end of the transitional period, and hence of UNTAC's mandate, the United Nations Commission on Human Rights should continue to monitor closely the human rights situation in Cambodia, including, if necessary, by the appointment of a Special Rapporteur who would report his findings annually to the Commission and to the General Assembly (art. 17).

II. THE UNTAC HUMAN RIGHTS COMPONENT

A. Structure

10. The actual Human Rights Component is relatively small. It comprises a staff of 10 professionals in Phnom Penh, divided into 2 units: monitoring and investigation; and training, education and information. In addition to this staff at headquarters, there are provincial human rights officers in each of the 21 provinces of Cambodia.

11. Although it was not originally intended to have provincial officers working exclusively on human rights, the experience of the first few months revealed a real need in this area, and it was finally decided to assign a correspondent of the Human Rights Component to each of the 21 provinces.

12. While the provincial officers report to the Component, they fall administratively under the relevant UNTAC provincial directorate. One officer has been deployed in one of the faction-controlled zones.

13. The relatively "modest" size of the Human Rights Component is partly due to the fact that human rights is seen as integral to the work of the entire UNTAC staff, and not just one element. The Component works closely with other Components of UNTAC and also other United Nations agencies, acting as a catalyst.

B. Activities

14. With the arrival in Phnom Penh on 15 March 1992 of the Secretary-General's Special Representative for Cambodia, UNTAC began its deployment, thereupon absorbing the United Nations Advance Mission in Cambodia (UNAMIC). UNTAC's main human rights activities have been in the following areas:

Investigations of complaints concerning human rights violations and adoption of corrective measures;

Review of prison conditions;

Education, training and information;

Presentation of international human rights instruments to the Supreme National Council with a view to accession;

Review of the judicial and penal system in the light of international human rights standards.

1. Investigations

15. The Human Rights Component has established a mechanism for the receiving of human rights complaints. As of 10 November 1992, the Component had received some 300 complaints at its office in Phnom Penh, and approximately the same number from the provinces. Some of these complaints were handed on by Cambodian human rights groups to UNTAC. They touched on virtually all aspects of life, not simply the run-up to elections.

16. Of these 298 complaints, 118 involved land disputes; 112, harassment and intimidation; 63, wrongful imprisonment; 14, wrongful death; 5, destruction of property; 1, seizure of property; 5, cease-fire violations; and 8, injuries.

17. A total of 161 complaints were taken up either by the Component's own staff or by other Components of UNTAC. Of these, 53 were referred to Civil Administration; 85 to the Civilian Police (CIVPOL); and 6 to the Military; 23 of the complaints were taken up by the Component's provincial human rights officers. Land disputes are handled by Civil Administration and not the Human Rights Component, unless the dispute involves violence, intimidation or other abuses.

18. Where human rights violations have been demonstrated, corrective action has often been taken with the authorities concerned, in some cases going as far as the release of persons arrested or detained and the resignation of the official concerned.

19. Complaints seem to be increasing in number, and they always relate to the same types of violations. There has been an increase of killings, kidnapping and attacks on opposition party offices, as well as alleged politically motivated killings of party members in the provinces. Three incidents which received wide press publicity were directed against the ethnic Vietnamese community. In one incident that was investigated jointly by the Component and CIVPOL, 14 Vietnamese were abducted by armed men on 2 October. Twelve were subsequently found murdered. In another attack on Vietnamese, eight Vietnamese were abducted in Kompong Tom and are believed to have been killed. This case was investigated by the Component and UNTAC military observers.

2. Review of prison conditions

20. The Human Rights Component has also undertaken work in the area of basic prison reform and has managed to have prison conditions improved. Almost all this work has occurred within territory controlled by the State of Cambodia, although human rights officials recently started intensive programmes in the zones controlled by the Khmer People's National Liberation Front (KPNLF) and by the Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique et Coopératif (FUNCINPEC).

21. To date, human rights officers have visited all three major prisons in Phnom Penh, all 21 provincial prisons, most district prisons, and a number of police holding cells at the commune/district level.

22. Prison visits began in June and confirmed most of the concerns that have been raised by international human rights groups. These included overcrowding, the use of shackles, detention in dark cells, and malnutrition. In addition, the system of prison management was exceptionally disorganized - making it even harder for detainees.

23. These concerns were put to the authorities and produced a swift response. A directive ordered all shackles removed from prisoners, and a Prison Control Commission was set up to review the Component's suggestions. The Commission also reviewed the cases of all inmates in the prisons controlled by the municipal police in Phnom Penh. A total of 140 prisoners were released

on 29 August and 2 September from the PJ and T3 prisons. Previously, on 15 May, 108 prisoners, many of them sick or elderly, had been released at UNCTAC's request as a humanitarian gesture on the occasion of Visaka Puja, an important Buddhist festival.

24. The Commission has also rationalized the organization and control of the prison system. UNTAC's Human Rights Component has made clear its view that prisoners who are a threat to public safety or security should not be released, but should be charged and tried.

25. The Component has found that prison conditions have improved measurably since the first visits. Health conditions are better; prison management has been simplified; prisoners are no longer shackled; cells are cleaner, ventilated and have better light.

26. The International Committee of the Red Cross (ICRC) has regular and free access to sick prisoners; the Component has initiated a programme of supplementary feeding in prisons with the ICRC, the World Food Programme and UNTAC's Civil Administration.

27. This dialogue between the Component and the local authorities is seen as constructive and fruitful, although there has been some recent slippage. One major concern continues to be the number of prisoners still awaiting trial, as a result of the shortcomings in the judicial system noted earlier. This underlines the importance of judicial reform and training.

28. The Paris Agreements call for the release of all political prisoners by the factions. Three of the four factions have stated that all political prisoners have been released. The Party of Democratic Kampuchea has stated that it holds no political prisoners, but the Component has been unable to verify this claim.

3. Education, training and information

29. Human rights education was described in the report of the Secretary-General of 19 February 1992 to the Security Council as the "cornerstone of UNTAC's activities in fostering respect for human rights". In light of this, the Component's education work has been conceived quite broadly to cover formal, informal and non-formal education.

30. Formal refers to educational activities within the school system. At the primary and secondary school levels, the Component has produced a set of curricular materials that have been distributed throughout the country for use in the civic education programme.

31. Provincial human rights officers are meeting with teachers at the school level and with staff of regional teacher-training colleges to help them introduce these materials. This arrangement applies to the areas controlled by the State of Cambodia (SoC). In the zones under the control of two of the other factions, the same materials are being used directly by the provincial human rights officers.

32. Human rights are also being introduced into the curriculum of the University of Phnom Penh. A weekly course of four hours began on 27 October at the law school for 210 students, and a lecture series is being organized for the other institutions of higher learning. Human rights is being introduced in specialized courses, i.e. journalism.

33. Informal Education refers to education outside the school system - for example, special groups that are particularly influential in the society. The Component conducts training for three broad categories: (i) officials of the existing administrative structures (police, judges, prosecutors, party officials, administrative officials of various ministries, etc.; (ii) UNTAC staff (civil police, district electoral supervisors, provincial human rights officers and their training assistants, etc.); and (iii) professional or activist groups (human rights associations, women's groups, health professionals, journalists, etc.).

34 Informal education, particularly for more elaborate training activities, aims to reach in particular the human rights associations, justice officials and the police. A set of "modules" has been prepared and distributed to the provincial human rights officers allowing them flexibility in scheduling briefings and training activities. Hundreds of such meetings have taken place in most of the provinces.

35. The content of training and briefings varies depending on the target group. For human rights associations, for example, training has covered the history and content of international human rights standards. Training for defenders in court, for the police and for magistrates focuses on the Provisions relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (see para. 46 et seq.).

36. Non-formal education aims at the public at large through the media. A dozen "dialogues" have been written on human rights themes, performed by Cambodian actors and disseminated in the form of television and radio broadcasts and comic strips. The Component has prepared six television mini-dramas, two television news magazine programmes, numerous interviews for radio, 100,900 leaflets and 25,000 posters. Several news magazines of approximately 20 minutes have been devoted to human rights and "spot" radio announcements of one minute have reminded the public of specific rights and the availability of the investigation team to hear and act on their complaints. Hundreds of thousands of Khmer-language leaflets (explaining what human rights are and where to file complaints) have been distributed.

37. Similar mass distribution is in preparation for a special Khmer version of the Universal Declaration of Human Rights. A poster has been produced giving the same basic human rights message, and other posters are in production on specific human rights themes.

38. Much of this work involves close cooperation with UNTAC's Information/Education Division. But the Component's own information specialists have taken advantage of traditional Khmer cultural mediums - singers, puppets, comics and local artists. A team of Ayai singers is giving 25 performances around the country. A project is in preparation using shadow puppet theatre.

39. A trust fund for the Programme in Human Rights Education for Cambodia has been established to fund training and education projects. These include activities designed to reach the widest possible segments of the population: general population, teachers and students, lawyers, judges and government officials. On 8 October 1992 the Special Representative of the Secretary-General appealed to Governments for over $1.6 million. Pledges have been received for an amount of about $500,000.

4. Accession to international human rights instruments

40. As mentioned above, article 15 of the Paris Agreements contains an undertaking by Cambodia to adhere to international human rights instruments, and this commitment by all the factions gives UNTAC's Human Rights Component a starting-point for its work.

41. The Component has presented the Supreme National Council with seven instruments. The SNC signed the two International Covenants on Human Rights on 20 April. These came into force on 26 August 1992, 90 days after being deposited with the Secretary-General.

42. On 20 September the SNC acceded to the following five international human rights instruments: the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child and the Convention relating to the Status of Refugees and its Protocol.

43. Following the accessions to the instruments, UNTAC has taken two measures to help Cambodia fulfil its obligations. In cooperation with the Centre for Human Rights, it has compiled all seven instruments, together with the two other main human rights instruments to which Cambodia is a party (the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racism and Racial Discrimination) and a selection of other instruments. These have been translated by the Cambodia Documentation Centre into Khmer and will be widely disseminated to officials and activists.

44. Plans are also under way to train officials in the rather heavy reporting obligations for States parties to these instruments. Human rights non-governmental organizations will be trained in monitoring government compliance.

5. Judicial and penal reform

45. The judicial system is also a theme of great concern. The judicial structure collapsed completely in 1975. As the Lawyers Committee for Human Rights has pointed out in a paper prepared for the International Symposium on Human Rights in Cambodia held in November/December 1992, in 1979 there were only 10 law graduates (including five judges) left in the country, and respect for the rule of law had disappeared altogether. Even today, some parts of the country lack any system of adjudication whatsoever. Elsewhere, there has been no serious attempt to rebuild the judiciary. The vacuum that this has created has given rise to the police usurping and assuming de facto judicial powers.

Police were under no obligation to report cases, and judges under no obligation to hold court. Even if they ordered a detainee freed, the police could well not heed the order - because there were no contempt provisions. If a detainee came before a judge, the decision was probably already taken. As a result of this situation, throughout the country, the concept of an independent judiciary is still being developed.

46. On 10 September the Supreme National Council adopted a set of Provisions relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period, despite the objections of the Party of Democratic Kampuchea (PDK).

47. These transitional provisions establish procedures for arrest and detention consistent with United Nations standards. They also reform the judiciary to provide for independence of magistrates, the possibility of appeal and conditions of a fair trial. (Judges are to be appointed by the existing administrative structures under the supervision of UNTAC.) In addition, the provisions set out and define 9 crimes, and 26 misdemeanours, with their respective punishments.

48. Law and order and public security generally fall under the purview of Civil Administration, which took the lead in drafting the provisions. The Human Rights Component provided direct advice and input on issues of the rule of law, independence of the judiciary, abuse of police powers, and the rights of the defence.

49. The precise wording of some of the 75 articles is still under review, on the basis of discussions with judges, magistrates and defenders.

50. The provisions mark a major step forward towards creating respect for the rule of law. They also provide the Human Rights Component with a legal yardstick in the administration of justice, including such work as improving conditions in prisons.

51. It is also clear, however, that the new provisions cannot be implemented overnight, particularly when there is such a shortage of trained judges, prosecutors and lawyers. As a result, Civil Administration, CIVPOL and the Human Rights Component have initiated a major programme of training for three categories: judges, defence lawyers/defenders and police. This programme is very much a cooperative effort, with Civil Administration taking the lead in training judges and prosecutors, CIVPOL coordinating the police training, and the Human Rights Component training defenders.

52. The first course for 60 defenders took place between 16 November at the Component's conference room. Each of the factions was invited to send five participants. The PDK declined to reply; all the other factions complied. In addition, each of the four human rights groups provided 10 participants. The goal of these courses is to train people to defend accused even though they may not have legal qualifications. Because of the small number of lawyers in Cambodia, the transitional provisions provide that anyone who has completed a secondary school education can represent an accused person. The accused can also ask a family member to represent them, regardless of educational qualifications.

C. Cooperation with non-governmental organizations

53. Since January 1992, four non-governmental organizations have been established in Cambodia:

(a) ADHOC (Cambodian Human Rights Association), set up at Phnom Penh in January 1992. It publishes a regular newsletter and participates in human rights training programmes in the capital and also in the provinces, where it has established several sections, albeit with difficulty;

(b) Cambodian League for the Promotion and Protection of Human Rights; originally created in Paris, it has had a section in Phnom Penh since July 1992 and is also beginning to establish itself in the provinces;

(c) Human Rights Vigilance of Cambodia, an association which has been set up very recently;

(d) Human Rights and Community Outreach Projects.

54. These associations have scant resources and encounter numerous difficulties in establishing themselves in the provinces, often because they are debarred from doing so by the Government authorities. The Human Rights Component has helped all four with a small administrative grant to cover start-up costs, and with funds to help publications. The groups have regular access to UNTAC videos. The Component has provided facilities for them and will shortly open a small resource centre which will be available for use by these groups.

55. The Human Rights Component also provides ongoing assistance to these associations by organizing training and sensitization courses, taking over the investigation of complaints that they may receive, and supplying them with various United Nations materials, which are gradually being translated into the Khmer language. Teaching materials adapted to Cambodia are also being developed, either separately or jointly. The organizations in turn provide important feedback to the Component about the effectiveness of UNTAC information material and programmes.

56. UNTAC also financed the participation of the four organizations in the International Symposium on Human Rights in Cambodia held in November/December 1992 (see paras. 58-63 below). One of the main goals of the Symposium was to build a network of international and regional support for these and other groups in the period after elections.

57. The Component has set up a working committee with several expatriate non-governmental organizations (Church World Service, Jesuit Refugee Service, International Cooperation for Development and Solidarity, Oxfam, PACT, Cooperation Committee of Cambodia). Others have expressed an interest in joining. The main aim of this committee is to review the options for promoting human rights after elections and assisting future involvement by the United Nations in Cambodia.

D. International Symposium on Human Rights in Cambodia

58. The International Symposium on Human Rights in Cambodia was organized under the auspices of UNTAC's Human Rights Component in Phnom Penh, from 30 November to 2 December 1992. It was the first international conference on human rights to be held in Cambodia. For the first time, representatives of three of the four major Cambodian factions presented their views about human rights publicly, and responded to questions during the public session about the future of human rights in Cambodia.

59. The goal of the Symposium was twofold:

(a) To identify ways in which the international community can provide support to Cambodian human rights institutions and structures, particularly the newly established human rights associations, building on the various activities begun by UNTAC;

(b) To explore specific ways in which the United Nations and other international organizations, international and regional non-governmental organizations and the Cambodian human rights community can best work together to ensure the safeguarding of human rights and fundamental freedoms in Cambodia in the coming years, particularly following elections and UNTAC'S withdrawal from Cambodia.

60. Participants included members of Cambodian non-governmental organizations, international and regional non-governmental organizations, representatives of UNTAC and the Centre for Human Rights, as well as of other international organizations. The representative of the Centre for Human Rights presented a paper entitled "Possible post-UNTAC United Nations roles in support of human rights in Cambodia".

61. The Symposium expressed a strong sense of regional and international solidarity with Cambodian human rights groups and led to several concrete offers of support in the fields of election monitoring, training, education, and measures to improve the functioning of courts, including defenders, and law enforcement consistent with human rights.

62. The Symposium strongly supported the establishment of a continuing United Nations human rights presence in Cambodia after UNTAC leaves. This should have adequate resources and staff, be present throughout the country and have a mandate to monitor the human rights situation, investigate alleged violations, continue human rights training and education and ensure that indigenous human rights groups are able to operate freely and without reprisals.

63. The report of the Symposium, which will be translated into Khmer, is contained in the addendum to the present report of the Secretary-General.

III. THE CENTRE FOR HUMAN RIGHTS

A. Mandate

64. The present mandate of the Centre for Human Rights in Cambodia has its basis in the above-mentioned decision 1992/102 of the United Nations Commission on Human Rights and resolution 1992/17 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. As explained above, there are two main areas of the Centre's action identified by these documents:

(a) Further development of an information programme on human rights, in cooperation with UNTAC;

(b) Development and implementation of long-term comprehensive programmes of technical assistance and advisory services which would contribute to a lasting improvement in the enjoyment of human rights and fundamental freedoms in Cambodia.

B. Activities

1. Information programme

65. The Centre for Human Rights has already started an information programme in cooperation with UNTAC. It has financed the publication of educational materials and the production of audio/visual material. It has provided background documents and literature for the UNTAC programme and arranged for some of the main international human rights instruments to be translated into Khmer and widely distributed to the Cambodian population. As of the writing of this report, the following United Nations instruments in the field of human rights had been translated into the Khmer language: the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Code of Conduct for Law Enforcement Officials; the Standard Minimum Rules for the Treatment of Prisoners; the Basic Principles on the Independence of the Judiciary; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child; the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. In addition, the publication of the Centre for Human Rights entitled ABC Teaching Human Rights has now been translated into Khmer.

66. The Centre is currently contributing to the financing of the Programme on Human Rights Training and Education for Cambodia recently elaborated by UNTAC's Human Rights Component (see para.39).

2. Mission to Cambodia

67. In order to identify further ways to effectively promote respect for human rights in the country, a mission from the Centre visited Cambodia from 11 to 17 October 1992. The delegation from the Centre was composed of a consultant and a staff member.

68. The mission was arranged following the invitation addressed to the Centre by the Special Representative of the Secretary-General for Cambodia, with the aim of strengthening cooperation between the Centre and UNTAC in various areas. Based on the elements suggested by the Special Representative and within the framework of the Centre's mandate, as defined in the documents mentioned, the mission was designed to establish and facilitate such cooperation, particularly in the following fields: training, information and education regarding human rights; appointment of a Special Rapporteur on Cambodia of the Commission on Human Rights, as envisaged in the Paris Agreements; relevance of UNTAC's mandate in relation to the World Conference on Human Rights; and expert assistance in the preparation of the new Cambodian Constitution. A further purpose was to examine ways of ensuring a continuing United Nations human rights presence in Cambodia after the elections and the end of UNTAC's mandate.

69. The programme for the mission took place entirely in the capital, with the exception of a day spent visiting Kompong Speu, one of Cambodia's 21 provinces.

70. At Phnom Penh, the Centre's delegation met the Director of the Human Rights Component of UNTAC, as well as the officials in charge of the various aspects of UNTAC's programme/mandate in the human rights field, who provided detailed explanations of their respective activities: education, training and information; investigations, monitoring of prison conditions; and assistance in legislative reform.

71. The Centre's delegation also met the Deputy to the Secretary-General's Special Representative in Cambodia, the Legal Counsel of UNTAC, the Directors of the Civil Administration and Electoral Components, and the Director of UNTAC's Information/Education Division.

72. Meetings were held with the representatives of a number of international organizations in Phnom Penh, namely: UNICEF, UNESCO, UNDP, UNHCR and ICRC.

73. The delegation also met:

(a) Members of the four local non-governmental organizations recently established in Cambodia: the Cambodian League for Human Rights (LICADHO), the Cambodian Human Rights Association (ADHOC), Human Rights Vigilance of Cambodia, and the Cambodia Documentation Centre;

(b) Members of the international non-governmental organizations currently in Cambodia (these are mostly organizations active in the development field).

74. In addition, the leaders of three Cambodian political factions also agreed to meet the Centre's delegation: the Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique et Coopératif (FUNCINPEC), the State of Cambodia (SoC) and the Khmer People's National Liberation Front (KPNLF).

75. A visit to the T3 prison, Phnom Penh's largest, was included in the programme, and it was possible to talk to the prisoners. On the other hand, access to the PJ prison was prohibited by the prison authorities. The Centre's representatives also visited a former execution camp some 40 km away from Phnom Penh.

76. In Kompong Speu province, the delegation met:

(a) The Provincial Director of the Civil Administration and his staff, the human rights officer, the Commander and other officers of the UNTAC Civilian Police the Director of the Electoral Component and his staff, and UNTAC military observers;

(b) The Provincial Governor and other representatives of the provincial authorities.

Visits were made to the provincial prison and a former execution camp.

77. A report was prepared after the mission. It contains information on UNTAC's activities in the field of human rights; an overview of the human rights situation in Cambodia; and, most importantly, proposals for short- and long-term activities to be undertaken in Cambodia by the Centre for Human Rights. The conclusions and recommendations formulated in the report are included in chapter IV of the present report.

3. Summary or arbitrary executions

78. The Special Rapporteur on extrajudicial, arbitrary and summary executions has requested information from the Government of Cambodia and from the Special Representative of the Secretary-General for Cambodia about facts falling under his mandate.

4. World Conference on Human Rights

79. Through the Centre, UNTAC has been requested to prepare a report on its human rights activities for the World Conference on Human Rights to be held in Vienna in June 1993.

IV. CONCLUSIONS

A. General concluding observations

80. The situation in Cambodia at the present time is extremely delicate and there are continuing grounds for serious concern: the attitude of the Party of Democratic Kampuchea, which has so far taken no part in the electoral process and has not allowed UNTAC into areas under its control; repeated violations of the cease-fire by a number of factions involved; the persistence

of difficult human rights situations; the slowness in reconstructing an operational legal system; and the endurance of discriminatory attitudes towards minorities, particularly Vietnamese - to name but a few such grounds.

81. Real progress has been made, with a very marked decline in the number of political assassinations, the release of political prisoners and prisoners of war, and an appreciable improvement in enjoyment of freedom of expression and association which has facilitated the emergence of human rights associations and new political parties. New institutions are being or have already been established. Legislation likely to facilitate democratization in the country has been adopted, and other norms are being prepared. As to electoral matters, UNTAC drew up and published, on 12 August 1992, an electoral law for the conduct of free and fair elections to a Constituent Assembly for Cambodia, in consultation with the Supreme National Council.

82. In the human rights field, it is clear that the progress achieved to date is due essentially to the presence and activity of UNTAC, and more especially its Human Rights Component. In this progress of democratization, the Human Rights Component has been not only the catalyst but also the institution guaranteeing such a process. A long-term United Nations presence is essential to enable civil society, which is beginning to conquer fear and to organize itself to take over and consolidate the gains. An outstanding training, education and monitoring effort has already been and is continuing to be made. However, it is clear that, in the few months remaining to it, the Human Rights Component will have neither the time nor the means to reach all sectors of society. It becomes obvious that the role played by the Human Rights Component cannot be terminated with the transitional period accorded in the Paris Agreement to UNTAC.

B. United Nations role in post-UNTAC Cambodia

83. It is clear, also, that the role and responsibility of the international community in the process of general reconstruction of Cambodia will continue after the transitional period and that the efforts undertaken to date by UNTAC to foster an environment in which respect for human rights is ensured need to be followed up in order to achieve a lasting improvement in the observance of human rights in Cambodia. Such follow-up can only be achieved through continuous and effective monitoring of the human rights situation in the country, as well as the continuation of training and information activities. Although the Paris Agreement contemplates the appointment by the United Nations Commission on Human Rights of a special rapporteur to monitor the situation in Cambodia, it appears that this mechanism, as well as the provision of traditional forms of technical assistance in the field of human rights, will not be sufficient to continue the process of democratization and to guarantee on a daily basis to Cambodian citizens and organizations their basic rights.

84. It is important to recall resolution 1992/17 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, where it affirms that "Cambodia's tragic past requires special and concrete measures to assure respect for the human rights and fundamental freedoms of all persons" and that "the international community has a responsibility to continue to support

Cambodia in the field of human rights". Because of the exceptional nature of the Cambodian situation makes it essential for the international community to seek new and original solutions.

85. There is a general consensus among Cambodian organizations, international non-governmental organizations and international organizations currently working in Cambodia and UNTAC members that, in order to maintain and strengthen the results achieved so far in the field of human rights in the country, a permanent presence of the United Nations, through its main human rights body - the Centre for Human Rights - is indispensable.

C. Proposals for future United Nations action in Cambodia

86. In the light of these considerations, the following measures are proposed as essential to effectively continue the international action in the field of human rights in Cambodia. They lead to a comprehensive approach to the protection and promotion of human rights in Cambodia, which is the only approach designed to meet the exceptional human rights needs of this country. It combines:

(a) Technical assistance activities which are traditionally carried out by the Centre for Human Rights under its advisory services and technical assistance programme;

(b) Traditional United Nations monitoring activity in the field of human rights;

(c) Innovative mechanisms mainly consisting of an operational presence of the Centre for Human Rights in Cambodia.

87. Some of the activities recommended should already be undertaken by the Centre during the transitional period and continued after the expiry of UNTAC's mandate:

(a) Training of judges and lawyers/defenders in the international principles of the administration of justice. The desperate need for activities aimed at supporting the establishment of an independent and effective judiciary system consistent with international human rights standards in Cambodia has been repeatedly stressed above;

(b) Training of police and military personnel, both Cambodian and UNTAC, in human rights and criminal justice, investigation techniques, with particular regard to cases of grave human rights violations, and other relevant subjects;

(c) Training of members of Cambodian non-governmental organizations on United Nations procedures. It is essential that these organizations become acquainted with the existing international mechanisms for the protection of human rights, including the treaty bodies, to the effective functioning of which they are called upon to contribute. This will be particularly important in the post-UNTAC era;

(d) Production and provision of information and education materials on human rights, and translation of international instruments and publications;

(e) Provision of fellowships to Cambodian government officials, lawyers and human rights activists;

(f) Advisory services on the drafting of the new Constitution. It is highly desirable that the creation of a national institution for the promotion and protection of human rights (Ombudsman, Human Rights Procurator, or any other form) be provided for in the Constitution;

(g) Training of members of Cambodian human rights associations and UNTAC staff on the principles of free and fair elections and election monitoring;

(h) Specialized training in minorities and women's issues;

(i) Assistance in the elaboration of human rights curricula for primary and secondary schools and universities; provision of lecturers and training of teachers.

88. Many of the above-mentioned activities will have to be implemented in cooperation with other United Nations bodies (for instance the Crime Prevention and Criminal Justice Branch and the Division for the Advancement of Women). During the International Symposium on Human Rights in Cambodia several international non-governmental organizations offered their concrete support and their expertise in the organization of some of the listed activities.

89. It is also recommended that the Commission on Human Rights:

(a) Appoint a Special Rapporteur on Cambodia, as envisaged in the Paris Agreements. Her/his mandate would be to review and monitor the situation of human rights in Cambodia. The commission's Special Rapporteurs on torture and extrajudicial summary and arbitrary executions, the Secretary-General's Representative on internally displaced persons and the Working Group on Arbitrary Detention could be requested to provide her/him with ongoing cooperation, assistance and findings and to accompany the Special Rapporteur in visiting Cambodia if he/she should so request. In addition, her/his mandate should also include the review of education, information and training activities, recommendations of technical assistance programmes in the field of human rights, as well as the assistance - in its development and functioning - to the national institution established pursuant to constitutional provisions which will be responsible for the protection and promotion of human rights;

(b) Establish an operational presence of the Centre for Human Rights in Cambodia, which will ensure a continuing human rights presence in the country after UNTAC leaves and will take over UNTAC's Human Rights Component functions. This structure, with adequate resources and staff, would assist the Special Rapporteur in monitoring human rights violations and promote necessary actions; continue human rights training and education; serve as a documentation centre for the use of non-governmental organizations, government officials and the public at large; oversee the implementation of advisory

services and technical assistance activities; assist the new Government in meeting its obligations under the international human rights instruments to which it is a party; and collaborate with non-governmental organizations and ensure that they can operate freely.

90. Finally, given the uniqueness of the Cambodian experience in the field of human rights, it is highly important that its findings and achievements are reported comprehensively to the World Conference on Human Rights in June 1993. It is particularly important that a representative of UNTAC illustrate the development of the mission and the importance of a mandate which gives priority to human rights in a peace-making process.

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